

Jeremy Dennis BARTLETT, *et al.*
Appln. No. 10/031,064
Amendment Under 37 CFR 1.116

REMARKS

Claims 5-8, 12, 14 and 15 are pending in the present Application. Claims 5, 14 and 15 have been amended, as will be discussed below. No new matter has been added. Accordingly, entry of the present Amendment is requested.

Applicants submit that entry of the present Amendment is appropriate despite the finality of the Office Action dated February 6, 2007, as the present Amendment at least reduces the issues for appeal by removing the rejection under 35 U.S.C. § 112, second paragraph.

Claims 14 and 15 have been rejected under 35 U.S.C. § 112, second paragraph, as assertedly being indefinite.

Claims 5, 14 and 15 have been amended consistent with the Examiner's helpful suggestions during the interview conducted April 23, 2007. (A Statement of Substance of the Interview is being concurrently filed herewith.)

Specifically, Claim 5 has been amended to recite that "the joins are positioned radially outward from a main body of the stent," and Claims 14 and 15 have been amended to refer to the filaments rather than the joins.

In view of the foregoing, Applicants respectfully submit that the present claimed invention now more clearly complies with the requirements of 35 U.S.C. § 112, second paragraph, and withdrawal of this rejection is requested.

Claims 5-8 and 12 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,083,257 to Taylor et al. ("Taylor"). Additionally, Claims 14 and 15 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Taylor.

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Applicants again respectfully traverse the rejection of Claims 5-8 and 12 for the reasons discussed on pages 4-6 of the Amendment filed November 21, 2006.

With respect to Claims 14 and 15, it is asserted on page 3 of the Office Action that “it is old and well known to form flaring ends on stents by increasing the angle of the filaments as they extend toward ends in order to obtain the advantage of preventing the migration of the stent in the body lumen.”

Applicants traverse the Examiner’s position. The Examiner cites to no reference in support of his position that increasing the angle of the filaments as they extend toward the ends of the stent would have been obvious.

Applicants submit that the Examiner’s conclusion is not appropriate. It is not appropriate to take official notice of facts without citing a prior art reference when the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. MPEP § 2144.03. That is not the case here. The Examiner needs to state that a reference teaches the claimed feature to be well known, and provide a reference.

In view of the foregoing, withdrawal of this rejection is requested.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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